

**BOARD OF COUNTY COMMISSIONERS  
AGENDA ITEM SUMMARY**

Meeting Date: June 15, 2005

Division: County Attorney

Bulk Item: Yes X No     

Department: County Attorney

Staff Contact Person: Bob Shillinger

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**AGENDA ITEM WORDING:**

Approval of payment to *Paul, Hastings, Janofsky & Walker, LLP* for professional legal services rendered by Robert H. Freilich, Esq. in the amount of \$111,999.09 (Invoice #1443273).

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**ITEM BACKGROUND:**

Robert Freilich has been defending the County in Collins v. Monroe County, CAM-04-379.

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**PREVIOUS RELEVANT BOCC ACTION:**

On November 29, 2004 the Board agreed to hire Mr. Freilich's prior law firm in the case.

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**CONTRACT/AGREEMENT CHANGES:**

N/A

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**STAFF RECOMMENDATIONS:**

Approval.

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**TOTAL COST:** \$111,999.09

**BUDGETED:** Yes      No     


**COST TO COUNTY:** \$111,999.09

**SOURCE OF FUNDS:**                     

**REVENUE PRODUCING:** Yes      No      **AMOUNT PER MONTH**      **Year**     

**APPROVED BY:** County Atty X OMB/Purchasing      Risk Management     

**DIVISION DIRECTOR APPROVAL:**

 06/13/05  
JOHN R. COLLINS, COUNTY ATTORNEY

**DOCUMENTATION:** Included X Not Required     

**DISPOSITION:**                                     

**AGENDA ITEM #**

PaulHastings

PAUL, HASTINGS, JANOFSKY & WALKER LLP  
515 South Flower Street, 25<sup>th</sup> Floor, Los Angeles, CA 90071-2228  
telephone 213-683-6000 / facsimile 213-627-0705 / internet www.paulhastings.com

Atlanta/ Beijing/ Hong Kong/ London/ Los Angeles/ New York/ Orange County/  
San Diego/ San Francisco/ Shanghai/ Stamford/ Tokyo/ Washington, D.C.

RECEIVED

MAY 31 2005

MONROE COUNTY ATTORNEY

Monroe County  
P.O. Box 1026  
Kew West, FL 33041-1026

Attn: Mr. Richard Collins

May 20, 2005

Please refer to  
Invoice Number: 1443273  
PHJ&W Tax ID No. 95-2209675

### SUMMARY SHEET

**Collins Litigation**

PHJ&W LLP File# 58551-00002  
Robert H. Freilich

Legal fees for professional services  
for the period ending April 30, 2005  
Costs incurred and advanced

\$106,415.00  
5,584.09

**Current Fees and Costs Due**

**\$111,999.09**

**Total Balance Due**

**\$111,999.09**

**Wiring Instructions:**

Bank of America  
ABA # 121000358  
Swift Code: BOFAUS6S  
101 South Marengo Avenue, 3rd Floor  
Pasadena, CA 91101  
Account Number: 14599-04796  
Account Name: Paul, Hastings, Janofsky & Walker LLP  
Comment: Please refer to the invoice number listed above.

**Remittance Address:**

Paul, Hastings, Janofsky & Walker LLP  
515 South Flower Street  
25th Floor  
Los Angeles, CA 90071-2228

Refer all questions to Carol Brich at (213) 683-5039, or carolbrich@paulhastings.com.



PaulHastings

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Monroe County  
P.O. Box 1026  
Kew West, FL 33041-1026

Attn: Mr. Richard Collins

May 20, 2005

Please refer to  
Invoice Number: 1443273  
PHJ&W Tax ID No. 95-2209675

FOR PROFESSIONAL SERVICES RENDERED  
for the period ending April 30, 2005

**Collins Litigation** **\$106,415.00**

<u>Date</u>	<u>Timekeeper</u>	<u>Description</u>	<u>Hours</u>	<u>Rate</u>	<u>Amount</u>
02/07/05	Robert H. Freilich	Legal research regarding state third party claim/indispensable parties	3.00	350.00	\$1,050.00
02/09/05	Robert H. Freilich	Telephone conference with B. Shillinger on state third party claim	0.40	350.00	\$140.00
02/11/05	James K. Kawahito	Attend conference with T. Besson regarding issues in lawsuit; legal research regarding Florida statutes and case law related to Takings issues	0.50	350.00	\$175.00
02/11/05	Robert H. Freilich	Work on third party complaint (2.0); answer indemnity, subrogation principal actor causes of action (1.20); telephone conference with T. Smith (0.40)	3.60	350.00	\$1,260.00

<u>Date</u>	<u>Timekeeper</u>	<u>Description</u>	<u>Hours</u>	<u>Rate</u>	<u>Amount</u>
02/11/05	W. Toliver Besson	Conference with R. Freilich regarding Monroe County litigation; review documents regarding same; conference with J. Kawahito regarding preparation of third party complaint against Florida	0.80	350.00	\$280.00
02/13/05	James K. Kawahito	Legal research regarding Florida statutes pertaining to environmental protection	1.80	350.00	\$630.00
02/14/05	James K. Kawahito	Legal research regarding eminent domain under Florida law; prepare third party complaint; prepare motion for leave to file third party complaint	5.50	350.00	\$1,925.00
02/14/05	W. Toliver Besson	Conference with J. Kawahito on preparation of third party complaint against Florida; review documents regarding same	0.30	350.00	\$105.00
02/15/05	James K. Kawahito	Legal research regarding Florida environmental protection laws; prepare third party complaint; attend conference with T. Besson regarding third party complaint	6.00	350.00	\$2,100.00
02/16/05	James K. Kawahito	Prepare third party complaint	2.30	350.00	\$805.00
02/16/05	Robert H. Freilich	Legal research regarding third party complaint	2.40	350.00	\$840.00
02/16/05	W. Toliver Besson	Conference with J. Kawahito regarding preparation of third party complaint; review complaint, answer and draft final administrative order; further conference with J. Kawahito	1.00	350.00	\$350.00



<u>Date</u>	<u>Timekeeper</u>	<u>Description</u>	<u>Hours</u>	<u>Rate</u>	<u>Amount</u>
02/17/05	James K. Kawahito	Prepare third-party complaint; attend conference with B. Freilich regarding third party complaint	3.50	350.00	\$1,225.00
02/17/05	Robert H. Freilich	Prepare third party complaint versus state	3.20	350.00	\$1,120.00
02/17/05	W. Toliver Besson	Conference with J. Kawahito regarding draft of third party complaint	0.30	350.00	\$105.00
02/17/05	W. Toliver Besson	Revise draft of third party complaint; further review of client documents and conference with J. Kawahito regarding revisions	0.80	350.00	\$280.00
02/21/05	Robert H. Freilich	Telephone conference with T. Smith regarding third party complaint	0.60	350.00	\$210.00
02/24/05	Robert H. Freilich	Revise amendments to third party complaint, state regulations under Critical Areas Act	1.00	350.00	\$350.00
02/27/05	Robert H. Freilich	Telephone conference with T. Smith regarding summary judgment (.30); review summary judgment motion (1.8)	2.10	350.00	\$735.00
02/28/05	Robert H. Freilich	Telephone conference with T. Smith (.30); review motion for summary judgment (2.60)	2.90	350.00	\$1,015.00
03/01/05	Robert H. Freilich	Review motion for summary judgment (1.80); telephone conference with T. Smith (.50); prepare memorandum to R. Shillinger on strategy (.80)	3.10	350.00	\$1,085.00

<u>Date</u>	<u>Timekeeper</u>	<u>Description</u>	<u>Hours</u>	<u>Rate</u>	<u>Amount</u>
03/07/05	Elisa Paster	Teleconference with T. Smith and R. Freilich regarding summary judgment and hearing	1.20	275.00	\$330.00
03/07/05	Robert H. Freilich	Telephone conference with T. Smith and S. Moore	2.00	350.00	\$700.00
03/09/05	Robert H. Freilich	Prepare response to summary judgment	1.80	350.00	\$630.00
03/10/05	Elisa Paster	Research statute of limitations and takings	0.50	275.00	\$137.50
03/10/05	Jennifer L. Derwin	Conference with B. Frielich regarding case background and opposition to motion for summary judgment	0.80	350.00	\$280.00
03/10/05	Robert H. Freilich	Telephone conference with B. Shillinger (.40); review motion for continuance (1.0); meeting with associate on motion for summary judgment (.80)	2.20	350.00	\$770.00
03/11/05	Elisa Paster	Research for opposition to summary judgment motion	2.00	275.00	\$550.00
03/11/05	Jennifer L. Derwin	Legal research regarding regulatory takings	0.30	350.00	\$105.00
03/11/05	Robert H. Freilich	Review transcript (1.0); work on motion for summary judgment (2.5)	3.50	350.00	\$1,225.00
03/14/05	Edgar Khalatian	Review file; research for summary judgment motion	2.50	350.00	\$875.00
03/14/05	Elisa Paster	Teleconference with T. Smith; legal research for opposition to summary judgment;	1.50	275.00	\$412.50
03/14/05	Jennifer L. Derwin	Conference with B. Frielich, E. Paster and E. Khalatian regarding case background and opposition to motion for summary judgment	1.00	350.00	\$350.00



<u>Date</u>	<u>Timekeeper</u>	<u>Description</u>	<u>Hours</u>	<u>Rate</u>	<u>Amount</u>
03/14/05	Robert H. Freilich	Meeting with associates on briefing (1.50); telephone conference with T. Smith regarding brief and answering affidavit (0.50)	2.00	350.00	\$700.00
03/15/05	Elisa Paster	Research civil procedure issues	0.20	275.00	\$55.00
03/17/05	Elisa Paster	Legal research	0.30	275.00	\$82.50
03/17/05	Robert H. Freilich	Work on expert witnesses (1.0); legal research regarding statute of limitations (2.5)	3.50	350.00	\$1,225.00
03/21/05	Robert H. Freilich	Legal research regarding investment backed expectations (1.20)	1.20	350.00	\$420.00
03/22/05	Robert H. Freilich	Legal research regarding investment backed expectations	1.50	350.00	\$525.00
03/23/05	Robert H. Freilich	Review interrogatory and admissions requests; legal research regarding court of federal claims and statute of limitations	2.80	350.00	\$980.00
03/25/05	Elisa Paster	Teleconference with T. Smith and S. Moore; legal research on nuisance and takings issues	2.50	275.00	\$687.50
03/25/05	Robert H. Freilich	Telephone conference with T. Smith and S. Moore (1.0); legal research regarding statute of limitations, estoppel and notice (3.80)	4.80	350.00	\$1,680.00
03/28/05	Elisa Paster	Conference call with T. Smith and S. Moore; legal research on takings issues	2.00	350.00	\$700.00
03/28/05	Jennifer L. Derwin	Legal research regarding regulatory takings	3.00	350.00	\$1,050.00

<u>Date</u>	<u>Timekeeper</u>	<u>Description</u>	<u>Hours</u>	<u>Rate</u>	<u>Amount</u>
03/28/05	Robert H. Freilich	Analyze nuisance claims - environmental issues (1.40); legal research regarding use and value deprivation	4.20	350.00	\$1,470.00
03/29/05	Edgar Khalatian	Research for summary judgment motion	0.30	350.00	\$105.00
03/29/05	Robert H. Freilich	Review current literature	1.20	350.00	\$420.00
03/30/05	Jennifer L. Derwin	Legal research regarding regulatory takings	2.30	350.00	\$805.00
03/31/05	Elisa Paster	Coordinate summary judgment issues	0.50	350.00	\$175.00
03/31/05	Jennifer L. Derwin	Legal research regarding regulatory takings	4.90	350.00	\$1,715.00
03/31/05	Robert H. Freilich	Telephone conference with T. Smith	0.20	350.00	\$70.00
04/01/05	Edgar Khalatian	Research various issues regarding summary judgment motion	1.20	350.00	\$420.00
04/01/05	Elisa Paster	Legal research for opposition to summary judgment	2.00	350.00	\$700.00
04/01/05	Jennifer L. Derwin	Telephone conference with R. Freilich, E. Paster and E. Khalatian regarding opposition to motion for summary judgment; legal research regarding regulatory takings	1.60	350.00	\$560.00
04/01/05	Robert H. Freilich	Meet with associates on legal issues (1.2); legal research regarding Ponderosa Decision (2.2)	3.40	350.00	\$1,190.00
04/04/05	Edgar Khalatian	Research investment backed expectations and other issues for summary judgment motion	2.80	350.00	\$980.00



<u>Date</u>	<u>Timekeeper</u>	<u>Description</u>	<u>Hours</u>	<u>Rate</u>	<u>Amount</u>
04/04/05	Elisa Paster	Research for opposition to summary judgment	1.50	350.00	\$525.00
04/04/05	Jennifer L. Derwin	Conference with R. Frielich and E. Khalatian; legal research regarding regulatory takings	1.60	350.00	\$560.00
04/04/05	Robert H. Freilich	Meet with associates on statute of limitations, ripeness and investment-backed expectations(2.4); prepare organization for brief on summary judgment (2.2)	4.60	350.00	\$1,610.00
04/06/05	Edgar Khalatian	Research ripeness, finality, investment backed expectations and unreasonable delay for summary judgment motion	4.00	350.00	\$1,400.00
04/07/05	Edgar Khalatian	Research investment backed expectations and unreasonable delay in prepration of summary judgment motion	2.50	350.00	\$875.00
04/07/05	James K. Kawahito	Attend conference with B. Freilich regarding motion to dismiss; legal research regarding sovereign immunity	0.80	350.00	\$280.00
04/07/05	Robert H. Freilich	Loss of Value -- subsequent sales for invaluable properties (2.6); legal research regarding nuisance and wetlands takings (1.2)	3.80	350.00	\$1,330.00
04/08/05	Elisa Paster	Legal research; teleconference with T. Smith	1.00	350.00	\$350.00
04/08/05	James K. Kawahito	Legal research regarding sovereign immunity	2.80	350.00	\$980.00

<u>Date</u>	<u>Timekeeper</u>	<u>Description</u>	<u>Hours</u>	<u>Rate</u>	<u>Amount</u>
04/08/05	Robert H. Freilich	Telephone conference with T. Smith on state motion; prepare memorandum on deposition subject; write-ups of value cases	1.40	350.00	\$490.00
04/09/05	Edgar Khalatian	Research investment backed expectations	1.30	350.00	\$455.00
04/11/05	Belinda K. Orem	Conference with R. Freilich regarding case issues and strategy	0.80	350.00	\$280.00
04/11/05	Edgar Khalatian	Research and prepare summary judgment motion	2.80	350.00	\$980.00
04/11/05	Elisa Paster	Legal research	3.00	350.00	\$1,050.00
04/11/05	James K. Kawahito	Legal research regarding sovereign immunity	1.50	350.00	\$525.00
04/11/05	Robert H. Freilich	Legal research regarding statute of limitations / value issues; legal research regarding TDRs	1.20	350.00	\$420.00
04/11/05	Robert H. Freilich	Review and revise exhaustion and finally ( , articles and cases)	2.20	350.00	\$770.00
04/12/05	Edgar Khalatian	Research for summary judgment motion	1.00	350.00	\$350.00
04/12/05	Elisa Paster	Legal research	4.00	350.00	\$1,400.00
04/12/05	James K. Kawahito	Legal research regarding sovereign immunity	0.50	350.00	\$175.00
04/12/05	Jennifer L. Derwin	Conference with R. Freilich, E. Paster and E. Khalatian regarding opposition to motion to compel	0.50	350.00	\$175.00



<u>Date</u>	<u>Timekeeper</u>	<u>Description</u>	<u>Hours</u>	<u>Rate</u>	<u>Amount</u>
04/12/05	Robert H. Freilich	Review S on TDR's Ripeness or Compensation Defending Takeings Clause (1.4); legal research regarding (TDR's) Relation to BUD's (PDRs) (1.4); meeting with Staffon Outline for Brief (1.9)	3.30	350.00	\$1,155.00
04/13/05	Edgar Khalatian	Teleconference with R. Freilich, E. Paster, J. Derwin, Tyson and Steve regarding summary judgment motion	2.80	350.00	\$980.00
04/13/05	Elisa Paster	Teleconference with T. Smith; legal research	3.00	350.00	\$1,050.00
04/13/05	James K. Kawahito	Legal research regarding sovereign immunity; attend conference with B. Freilich regarding sovereign immunity	5.20	350.00	\$1,820.00
04/13/05	Jennifer L. Derwin	Attend portion of telephone conference with R. Freilich, T. Smith, E. Paster and E. Khalatian	1.80	350.00	\$630.00
04/13/05	Robert H. Freilich	Telephone conference with attorneys on summary judgment motions (1.3); prepare notes on conference call (.30); legal research regarding state immunity / motion to dismiss (2.8)	4.40	350.00	\$1,540.00
04/14/05	Edgar Khalatian	Research in preparation for Summary Judgment motion	0.50	350.00	\$175.00
04/14/05	James K. Kawahito	Legal research regarding sovereign immunity; legal research regarding inverse condemnation	1.70	350.00	\$595.00
04/14/05	Robert H. Freilich	Legal research regarding state mandates; Tahoe and temporary takes	5.20	350.00	\$1,820.00

<u>Date</u>	<u>Timekeeper</u>	<u>Description</u>	<u>Hours</u>	<u>Rate</u>	<u>Amount</u>
04/15/05	Edgar Khalatian	Research investment backed expectations for summary judgment motion	3.20	350.00	\$1,120.00
04/15/05	Elisa Paster	Legal research	0.50	350.00	\$175.00
04/15/05	James K. Kawahito	Legal research regarding sovereign immunity	2.20	350.00	\$770.00
04/18/05	Edgar Khalatian	Research and prepare summary judgment motion	4.00	350.00	\$1,400.00
04/18/05	Elisa Paster	Legal research	2.50	350.00	\$875.00
04/18/05	James K. Kawahito	Prepare memorandum regarding sovereign immunity	1.10	350.00	\$385.00
04/18/05	Jennifer L. Derwin	Legal research regarding statute of limitation for regulatory takings	0.70	350.00	\$245.00
04/19/05	Edgar Khalatian	Research and prepare summary judgment motion	7.10	350.00	\$2,485.00
04/19/05	Elisa Paster	Legal research and draft outline	5.30	350.00	\$1,855.00
04/19/05	James K. Kawahito	Prepare memorandum for B. Freilich regarding motion to dismiss; legal research regarding sovereign immunity	5.80	350.00	\$2,030.00
04/19/05	Jennifer L. Derwin	Legal research regarding statute of limitation for regulatory takings	7.30	350.00	\$2,555.00
04/20/05	Edgar Khalatian	Prepare summary judgment motion; conference with R. Freilich and E. Paster regarding summary judgment motion	4.70	350.00	\$1,645.00
04/20/05	Elisa Paster	Work on opposition to summary judgment	5.20	350.00	\$1,820.00
04/20/05	James K. Kawahito	Prepare memorandum to B. Freilich regarding sovereign immunity	0.70	350.00	\$245.00



<u>Date</u>	<u>Timekeeper</u>	<u>Description</u>	<u>Hours</u>	<u>Rate</u>	<u>Amount</u>
04/20/05	Jennifer L. Derwin	Conference with R. Freilich, E. Khalatian and E. Paster regarding opposition to motion for summary judgment; legal research regarding accrual of cause of action for regulatory takings; prepare outline regarding same	4.40	350.00	\$1,540.00
04/20/05	Robert H. Freilich	Meeting with E. Khalatian, E. Paster, J. Derwin on outlines and strategies	2.50	350.00	\$875.00
04/21/05	Edgar Khalatian	Research in preparation of opposition to summary judgment motion	0.90	350.00	\$315.00
04/21/05	Elisa Paster	Research and draft opposition to summary judgment	3.50	350.00	\$1,225.00
04/21/05	Robert H. Freilich	Legal research regarding State 11th Amendment Immunity	1.80	350.00	\$630.00
04/22/05	Edgar Khalatian	Research and prepare reply to summary judgment motion	1.00	350.00	\$350.00
04/22/05	Elisa Paster	Research and draft opposition to summary judgment	6.70	350.00	\$2,345.00
04/22/05	Jennifer L. Derwin	Legal research regarding accrual of cause of action for regulatory takings	3.00	350.00	\$1,050.00
04/22/05	Robert H. Freilich	Review and revise legal memorandum summary judgment	3.20	350.00	\$1,120.00
04/23/05	Edgar Khalatian	Research and prepare opposition to summary judgment motion	3.00	350.00	\$1,050.00

<u>Date</u>	<u>Timekeeper</u>	<u>Description</u>	<u>Hours</u>	<u>Rate</u>	<u>Amount</u>
04/23/05	Jennifer L. Derwin	Legal research regarding accrual of cause of action for regulatory takings	4.20	350.00	\$1,470.00
04/24/05	Edgar Khalatian	Research and prepare opposition to summary judgment motion	3.00	350.00	\$1,050.00
04/24/05	Elisa Paster	Research and draft brief	4.50	350.00	\$1,575.00
04/24/05	Jennifer L. Derwin	Legal research regarding accrual of cause of action for regulatory takings; prepare outline regarding same	2.50	350.00	\$875.00
04/25/05	Elisa Paster	Research and draft brief	3.50	350.00	\$1,225.00
04/25/05	Robert H. Freilich	Prepare first draft of Legal Memorandum for Summary Judgment	2.50	350.00	\$875.00
04/26/05	Elisa Paster	Draft brief	2.00	350.00	\$700.00
04/26/05	Robert H. Freilich	Review and revise draft memorandum of law	3.40	350.00	\$1,190.00
04/27/05	Edgar Khalatian	Research and revise opposition to summary judgment motion	3.50	350.00	\$1,225.00
04/27/05	Elisa Paster	Legal research	2.00	350.00	\$700.00
04/27/05	Robert H. Freilich	Review and revise draft brief - summary judgment (1.2); analyze cross-motion for summary judgment on statute of limitations	2.60	350.00	\$910.00
04/28/05	Edgar Khalatian	Review opposition to summary judgment motion	0.30	350.00	\$105.00
04/28/05	Elisa Paster	Work on brief; travel	6.00	350.00	\$2,100.00
04/29/05	Elisa Paster	Review facts and create tables for classess	2.00	350.00	\$700.00
<b>Total Fees</b>			<b>305.80</b>		<b>\$106,415.00</b>



**Timekeeper Summary**

Belinda K. Orem	0.80 hours at	\$350.00
W. Toliver Besson	3.20 hours at	\$350.00
Robert H. Freilich	98.70 hours at	\$350.00
Edgar Khalatian	52.40 hours at	\$350.00
Elisa Paster	8.20 hours at	\$275.00
Elisa Paster	60.70 hours at	\$350.00
James K. Kawahito	41.90 hours at	\$350.00
Jennifer L. Derwin	39.90 hours at	\$350.00

**For Costs Incurred and Advanced**

Meals	23.21
Lexis/On Line Search	5,065.23
Long Distance Telephone Charges	7.45
Photocopy Charges	478.80
Facsimile	7.50
Postage/Express Mail	1.90
<b>Total Costs</b>	<b>\$5,584.09</b>

<b>Current Fees and Costs Due</b>	<b>\$111,999.09</b>
<b>Total Balance Due</b>	<b>\$111,999.09</b>